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ATTORNEY FOR APPELLANT:

JEFFREY G. RAFF
Deputy Public Defender
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

ARTHUR I. WILLIAMS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee.

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No. 02A03-0610-CR-489

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0605-FC-123

June 29, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SULLIVAN, Judge

Appellant-Defendant, Arthur Williams, appeals his five-year executed sentence following a guilty plea and conviction for Carrying a Handgun Without a License as a Class C felony.¹ Upon appeal, Williams claims the sentence is inappropriate in light of his character and the nature of his offense.

We affirm.

According to the factual basis entered during the August 24, 2006 guilty plea hearing, on May 9, 2006, Williams carried a handgun without a permit in a place which was not his home or fixed place of business, in Allen County, Indiana. Also according to the factual basis entered during the plea hearing, Williams was previously convicted in Allen County on September 30, 2004 of theft as a Class D felony under Cause No. 02D04-0407-FB-102.

On May 12, 2006, Williams was charged with carrying a handgun without a license as a Class C felony. In part II of such information, Williams was alleged to have been convicted of theft in Allen County on September 30, 2004. During the plea hearing, Williams pleaded guilty to the carrying-a-handgun charge and admitted his past conviction for theft. The court then imposed a five-year executed sentence. In imposing such sentence, the court stated the following:

“Court does find as an aggravating circumstance your criminal record consisting of five juvenile adjudications, delinquencies, and four misdemeanors as an adult, and one felony as an adult, covering a period of time from 1998 to 2006. Efforts to rehabilitate your behavior have failed. In the juvenile system, you were placed on juvenile probation. Discharged, ultimately, from juvenile probation in August of 2000. As an adult you’ve

¹ Ind. Code § 35-47-2-1 (Burns Code Ed. Repl. 2004); Ind. Code § 35-47-2-23 (Burns Code Ed. Repl. 2004).

been given informal probation, unsupervised probation, Choices Classes, short jail sentences, longer jail sentences, community service, formal adult probation, and work release. Court finds as a mitigating circumstance your plea of guilty and acceptance of responsibility. Candidly, I don't weight it very heavily since it was day of trial, but it is a mitigating circumstance that you pled guilty and accepted responsibility for your behavior. Court would find that the aggravating circumstance of your criminal record outweighs the mitigating circumstances. It's, therefore, ORDERED that the defendant be committed to the Indiana Department of Correction for classification and confinement for a period of five (5) years." Sentencing Tr. at 9-10.

Upon appeal, Williams argues that his sentence is inappropriate in light of his character and the nature of his offense.² We may revise a sentence authorized by statute if it is inappropriate in light of the nature of the offense and the character of the offender. Childress v. State, 848 N.E.2d 1073, 1079-80 (Ind. 2006) (citing Ind. Appellate Rule 7(B)). In evaluating Williams's challenge, we observe that Williams has a lengthy criminal history which does not reflect highly upon his character. As the trial court found, Williams had five juvenile adjudications of delinquency in 1998 and 1999 based upon the crimes of criminal trespass, criminal mischief, possession of marijuana, and resisting law enforcement if committed by an adult.³ Additionally, Williams's adult criminal history includes four misdemeanor convictions from 2002 to 2004 for operating a vehicle without ever receiving a license, for which he received suspended sentences and was given either informal probation, or required to attend Choices classes or perform community service work. Yet in three of those four cases, Williams's suspended

² Williams makes no separate claim to the court's specific weighing of aggravators and mitigators, which a panel of our court found should be included as part of the Indiana Appellate Rule 7(B) analysis. See McMahon v. State, 856 N.E.2d 743, 749 (Ind. Ct. App. 2006). But see McDonald v. State, 861 N.E.2d 1255, 1258-59 (Ind. Ct. App. 2007), trans. pending.

³ Williams was adjudicated delinquent twice upon the basis of resisting law enforcement.

sentences were subsequently revoked. Williams's criminal history also includes the 2004 theft conviction serving to enhance the current conviction to a Class C felony, for which he received a sentence suspended to probation, which was also revoked. Eleven days after Williams completed his sentence in Allen County Work Release due to the revocation of probation for his theft conviction, he committed the instant offense. Williams's continuing history of disregard for the law as demonstrated by his many offenses and his failure to comply with myriad treatment options undermines our confidence in his character.

Upon reviewing the nature of the offense, we observe from the probable cause affidavit that Williams was not merely caught carrying a handgun, he was carrying a loaded handgun, he was accompanied by another individual carrying a shotgun, and the two were arriving at the home of an individual they had allegedly threatened. Indeed, these circumstances suggest that the nature of the instant offense is relatively egregious. In light of Williams's continuing inability to conform his conduct to the law and the egregious circumstances of this offense, we conclude the trial court's imposition of a five-year sentence, which is one year above the four-year advisory sentence,⁴ was not inappropriate.

The judgment of the trial court is affirmed.

ROBB, J., and VAIDIK, J., concur.

⁴ Ind. Code § 35-50-2-6 (Burns Code Ed. Supp. 2006).